

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LIFEWATCH SERVICES, INC., and
CARD GUARD SCIENTIFIC SURVIVAL, LTD.

Plaintiffs,

v.

BRAEMAR, INC. AND
ECARDIO DIAGNOSTICS, LLC,

Defendants.

Civil Action No. 09-CV-6001

**JOINT MOTION TO AMEND CERTAIN CASE DEADLINES AND FOR
LEAVE FOR PLAINTIFFS TO SERVE AMENDED INFRINGEMENT CONTENTIONS**

Pursuant to Federal Rule 16(b)(4), the parties to this lawsuit, Plaintiffs LifeWatch Services, Inc. and Card Guard Scientific Survival, Ltd. (collectively “Plaintiffs”), and Defendants Braemar, Inc. and eCardio Diagnostics, LLC (collectively “Defendants”), jointly move the Court to amend the scheduling order to extend certain deadlines in this case, as set forth herein. In addition, pursuant to Local Patent Rule 3.4, Plaintiffs seek leave of Court to serve amended infringement contentions to add allegations against Defendant Braemar’s recently-announced “Fusion” products with respect to the patent-in-suit, U.S. Patent No. 5,730,143. Defendants agree that Plaintiffs should be allowed leave to serve amended infringement contentions.

The parties believe good cause exists to grant this motion. Plaintiffs promptly notified Braemar that based on the recent Rule 30(b)(6) deposition testimony of Braemar’s corporate representatives, Plaintiffs had reason to believe that Braemar’s Fusion products infringe claims of U.S. Patent No. 5,730,143. After several telephone meetings between the parties, Braemar produced

certain technical documentation for its Fusion products to Plaintiffs' counsel on June 30, 2010. Plaintiffs intend to supplement their infringement contentions to add allegations of infringement against Braemar's Fusion products. Accordingly, Plaintiffs respectfully request leave to serve amended contentions, and Defendants agree that Plaintiffs should be allowed leave.

To accommodate the addition of infringement allegations against the Fusion products, and so that the case proceeds in a coordinated and efficient manner, the parties have negotiated and agreed upon the following amended deadlines in the case:

<u>Deadline</u>	<u>New Date</u>
Plaintiff to serve "Initial Infringement Contentions" with respect to Fusion products	August 4, 2010
Defendants to serve "Initial Non-Infringement Contentions" with respect to Fusion products Defendants to update responses to interrogatories with respect to Fusion products	August 20, 2010
Plaintiff to serve "Final Infringement Contentions" with respect to Fusion products	September 10, 2010
Defendants to serve "Final Non-infringement Contentions" with respect to Fusion products	September 24, 2010
Deadline for the simultaneous exchange of Claim Proposed Terms/Phrases and Proposed Constructions and Claim Elements for Construction	October 1, 2010
Deadline to Meet & Confer to determine which 10 terms or phrases per patent the Court should construe	October 8, 2010
Deadline for Defendants to submit an Opening Claim Construction Brief Deadline for the parties to file a Joint Appendix containing the patent(s) in suit and the prosecution history for each patent.	November 1, 2010
Deadline for Plaintiffs' to submit a Responsive Claim Construction Brief	December 1, 2010

<u>Deadline</u>	<u>New Date</u>
Deadline for Defendants' to submit a Reply Claim Construction Brief	December 15, 2010
Deadline to submit Joint Claim Construction Chart & Joint Status Report with proposals for Claim Construction Hearing	December 22, 2010
Claim Construction Hearing	TBD at the Court's convenience after January 13, 2011

REQUEST FOR RELIEF

WHEREFORE, the parties respectfully request that the Court enter the proposed order submitted with this motion (1) allowing Plaintiffs leave to serve amended infringement contentions to add allegations of infringement against Braemar's Fusion products with respect to U.S. Patent No. 5,730,143, and (2) modifying certain case deadlines as set forth above.

Dated: July 13, 2010

/s/ Jeremy P. Oczek

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing document via the Court's CM/ECF system on this 13th day of July, 2010.

/s/ Jeremy P. Oczek

Jeremy P. Oczek